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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,291	08/20/2001	David L. Kinard	D-43502-01	5703

7590
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03/18/2009

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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03/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/933,291	Applicant(s) KINARD ET AL.	
	Examiner MARC A. PATTERSON	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-10 and 12-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-10 and 12-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

REPEATED REJECTIONS

1. The 35 U.S.C. 103(a) rejection of Claims 1, 6 - 10, 14 - 18, 21 - 22 as being unpatentable over Sanfilippo et al. (U.S. Patent No. 6,221,411 B1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102), of record on page 2 of the previous Action, is repeated.
2. The 35 U.S.C. 103(a) rejection of Claim 5 as being unpatentable over Sanfilippo et al. (US 6,221,411 B1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102) and further in view of Wiles (GB 2296905 A), of record on page 2 of the previous Action, is repeated.
3. The 35 U.S.C. 103(a) rejection of Claim 13 as being unpatentable over Sanfilippo et al. (US 6,221,411 B1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102) and further in view of Miller et al. (US 4,321,997), of record on page 2 of the previous Action, is repeated.
4. The 35 U.S.C. 103(a) rejection of Claims 19 - 20 as being unpatentable over Sanfilippo et al. (US 6,221,411 B 1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102) and further in view of Bair (US 5,135,787) and LeKhac (US 4,743,244), of record on page 2 of the previous Action, is repeated.

5. The 35 U.S.C. 103(a) rejection of Claims 23 – 24 as being unpatentable over Sanfilippo et al. (US 6221411 B1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102), of record on page 2 of the previous Action, is repeated.

ANSWERS TO APPLICANT’S ARGUMENTS

6. Applicant’s arguments regarding the 35 U.S.C. 103(a) rejection of Claims 1, 6 - 10, 14 - 18, 21 – 22 as being unpatentable over Sanfilippo et al. (U.S. Patent No. 6,221,411 B1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102), 35 U.S.C. 103(a) rejection of Claim 5 as being unpatentable over Sanfilippo et al. (US 6,221,411 B1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102) and further in view of Wiles (GB 2296905 A), 35 U.S.C. 103(a) rejection of Claim 13 as being unpatentable over Sanfilippo et al. (US 6,221,411 B1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102) and further in view of Miller et al. (US 4,321,997), 35 U.S.C. 103(a) rejection of Claims 19 – 20 as being unpatentable over Sanfilippo et al. (US 6,221,411 B1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102) and further in view of Bair (US 5,135,787) and LeKhac (US 4,743,244), and 35 U.S.C. 103(a) rejection of Claims 23 – 24 as being unpatentable over Sanfilippo et al. (US 6221411 B1) in view of Fontenot et al (U.S. Patent Publication No. 2002/0182102), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 10 of the remarks dated November 20, 2008, that Figure 2 shows that the impervious backing layer of Fontenot et al is the lower layer of the liner, rather than the upper layer as claimed.

However, Fontenot does not limit the use of the liner to one in which the impervious layer is spatially lower than the other layers, although in the schematic figure the impervious layer is closer to the bottom of the page; furthermore, whether the liner is placed in a container so that the impervious layer faces 'up' or 'down' absorption of meat juices will occur, either from the meat directly or from the bottom of the container.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497.

The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Marc A Patterson/
Primary Examiner, Art Unit 1794